

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

BOHDAN G. SENIW a/k/a Bo,	:	
Plaintiff,	:	
	:	
-vs-	:	Civil No. 3:01cv2085 (PCD)
	:	
MYRNA E. GANS,	:	
Defendant.	:	

ORDER DISMISSING COMPLAINT

Plaintiff was granted leave to proceed in forma pauperis. Construing plaintiff's complaint under the liberal standard afforded pro se submissions, *see Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972), no cognizable claim against defendant can be identified and the complaint is dismissed sua sponte.

"A district court must dismiss an in forma pauperis action if the action is 'frivolous or malicious.' *See* 28 U.S.C. § 1915(e)(2)(B)(I). An action is 'frivolous' when either: (1) the factual contentions are clearly baseless, such as when allegations are the product of delusion or fantasy; or (2) the claim is 'based on an indisputably meritless legal theory. . . . A claim is based on an 'indisputably meritless legal theory' when either the claim lacks an arguable basis in law . . . or a dispositive defense clearly exists on the face of the complaint." *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (citations omitted; internal quotation marks omitted).

Plaintiff's complaint is deemed frivolous for failure to provide any factual contention of wrongdoing against defendant and for failure to implicate a legal theory on which to base his complaint. Defendant refers to the venue provisions of 28 U.S.C. § 1404 (change of venue) and 28 U.S.C. §

1405 (creation or alteration of district or division), and includes the phrase “return all that’s been stolen” as the remedy sought. If the conclusory reference to “stolen” alleges that defendant took something from plaintiff, there are no allegations identifying what was taken from him in support of the claim. It is further noted that plaintiff and defendant are not alleged to be of diverse citizenship, thus this Court could not assert subject matter jurisdiction over such a state law claim pursuant to 28 U.S.C. § 1332. The allegations in the complaint, even when viewed under the liberal standards afforded pro se pleadings, do not suffice to put defendant on notice of the nature of a claim against her, *see Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995). The complaint is therefore dismissed without prejudice and with leave to file an amended complaint within thirty days.

SO ORDERED.

Dated at New Haven, Connecticut, November ___, 2001.

Peter C. Dorsey
United States District Judge